

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
MARK VARACCHI,	:	
	:	17 Cr. 076 (SHS)
Defendant.	:	
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WHEREAS, on or about February 1, 2017, MARK VARACCHI, (the “Defendant”) was charged in a four-count Information, 19 Cr. 76 (SHS) (the “Information”) with conspiracy to commit securities fraud and wire fraud, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5 (Count Two); and two counts of wire fraud, in violation of Title 18, United States Code, Section 1343 (Counts Three and Four);

WHEREAS, the Information included a forfeiture allegation as to Counts One through Four of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One through Four of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One through Four of the Information;

WHEREAS, on or about February 1, 2017, the Defendant pled guilty to Counts One through Four of the Information, pursuant to an agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Counts One through Four of the Information and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c), of any and all property representing proceeds traceable to the commission of the offenses charged in Counts One through Four of the Information;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$25,451,801 in United States currency represents any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense charged in Counts One through Four of the Information, that the Defendant personally obtained, of which the Defendant is jointly and severally liable with co-conspirators Steven Simmons, *United States v. Simmons*, 17 Cr. 127 (KMW) (S.D.N.Y.) and Jason Rhodes, *United States v. Jason Rhodes*, 18 Cr. 887 (SHS) (S.D.N.Y.) (together, the “Co-Conspirators”) and the forfeiture money judgments entered against the Co-Conspirators in those matters; and

WHEREAS, the Defendant admits that as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts One through Four of the Information that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Jared Lenow, of counsel, and the Defendant and his counsel, Rodney Villazor, Esq., that:

1. As a result of the offenses charged in Counts One through Four of the Information, to which the Defendant pled guilty, a money judgment in the amount of \$25,451,801 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts One through Four of the Information that the Defendant personally obtained, of which the Defendant is jointly and severally liable with the Co-Conspirators and the forfeiture money judgments entered against the Co-Conspirators in those matters, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, MARK VARACCHI and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

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8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By:


JARED LENOW
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-1068

9/5/2022
DATE

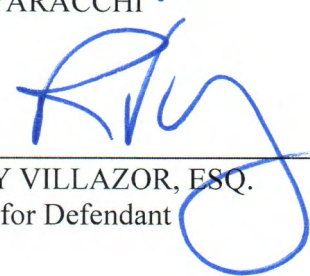
MARK VARACCHI

By:


MARK VARACCHI

9/9/22
DATE

By:


RODNEY VILLAZOR, ESQ.
Attorney for Defendant

9/9/2022
DATE

SO ORDERED:


HONORABLE SIDNEY H. STEIN
UNITED STATES DISTRICT JUDGE

September 9, 2022
DATE